IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24642 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAKAL (SHRINANDNAGAR-IV)CO-OP.HOUS.SOC.LTD.THRO'CHAIRMAN - Petitioner(s)

Versus

TORRENT POWER AEC LTD. & 1 - Respondent(s)

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Appearance :
MR ANIL C THAKORE for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 11/01/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

1. Rule. The endorsement on the board indicates that though both the respondents are duly served none of them has appeared either through its lawyer or through its constituted agent nor any of them has filed reply controverting the averments made in the petition. Therefore,this court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in the instant petition upon the respondents. Having regard to the facts of the case, the petition is taken up for final disposal today.

2. By filing the instant petition under Article 226 of the Constitution, the petitioner i.e. Suresh K.Devadiga, who is Chairman of Sakal (Shrinandnagar-IV) Co-operative Housing Society Ltd., has prayed to issue appropriate writ directing the respondent No.1 i.e. Torrent Power AEC Limited to grant 33

electricity connections to the residential units constructed by him. The petitioner has further prayed to direct the respondent No.2 i.e. Ahmedabad Urban Development Authority to grant Building Use Permission to him in respect of the units constructed by him.

3. Revenue Survey No.502/A/1/Part, 2/F and 3/5 totally admeasuring 17259.60 sq.mts. of Development Plan of village Vejalpur, Taluka, City and District Ahmedabad belonged to Sakal Co-operative Housing Society Ltd., (Vibhag-II (F) and 3/Paiki). The Chairman of the Society was desirous of developing the land belonging to the Society. Therefore, he applied to the Ahmedabad Urban Development Authority for grant of development permission. The development permission was granted on July 2,2001, which is quite evident from the contents of the document produced by the petitioner at Annexure “B” to the petition. Sakal Co-operative Housing Society Ltd. was amalgamated with two other societies and the name of the new society was given as Sakal (Shrinandnagar-IV) Co-operative Housing Society Ltd. vide order dated August 16,2001, a copy of which is produced at Annexure A/1 to the petition. The case of the

petitioner is that pursuant to the development permission granted by Ahmedabad Urban Development Authority the petitioner has constructed 32 residential units. After the construction of the residential units was over, it was the duty of the petitioner to obtain Building Use Permission from the competent authority and, thereafter,to apply to the respondent No.1 for grant of electricity connection to the units constructed by him. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for grant of electricity connections to the units constructed by him. The said request has been turned down by the respondent No.1, which is quite evident from the contents of communication dated September 29,2006 addressed by the General Manager of the respondent No.1 to the petitioner, a copy of which is produced at Annexure “C” to the petition. By the said communication the petitioner has been called upon to produce Building Use Permission or conditional order of the High Court to enable the respondent No.1 to grant supply of electricity connection to the units constructed by him. Under the circumstances, the petitioner has filed the instant petition and claimed reliefs, to which reference is made earlier.

4. The petition was placed for admission hearing before the Court on December 5,2006 and after hearing the learned counsel for the petitioner, the notice for final disposal of the petition was issued. As observed earlier, both the respondents are duly served but none of them has appeared before the Court nor contested the petition.

5. This Court has heard Mr.Anil C.Thakore, learned advocate for the petitioner and considered the documents forming part of the petition. On the facts and in the circumstances of the case, this Court is of the opinion that interest of justice would be served, if following directions are issued :-

(1) The petitioner shall approach the Ahmedabad Urban Development Authority for obtaining Building Use Permission within thirty days from today, with an appropriate application /form/format, and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of

the same.

(3) The petitioner shall apply to the respondent No.1 – Torrent Power AEC Limited for providing electricity connection to the residential units constructed by him, with an appropriate application/form/format, and by paying charges, within a week from today.

(4) The respondent No.1-Torrent Power AEC Limited is directed to provide electricity connection to the residential units constructed by the petitioner within one month from the date of receipt of the application on usual terms and conditions.

(5) In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform Torrent Power AEC Limited to disconnect the electricity supply from the residential units constructed by the petitioner, and in such eventuality, it would be open to Torrent Power AEC Limited to disconnect the electricity connection.

(6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to the residential units constructed by the petitioner within a period of fifteen days.

(7) The petitioner shall file an undertaking before the Torrent Power AEC Limited to the effect that in the event Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply made available to the residential units constructed by the petitioner. This undertaking shall be filed along with the application /form/format meant for the purpose.

6. Rule is made absolute subject to above referred to directions. There shall be no orders as to costs. Direct Service is permitted.

(J.M.Panchal,J)

(Smt.Abhilasha Kumari,J)

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